

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Declaratory Ruling: Lawfulness)	
of Incumbent Local Exchange Carrier)	CC Docket No. 01-92
Wireless Termination Tariffs)	
)	
Interconnection Between Local Exchange)	CC Docket No. 95-185
Carriers and Commercial Mobile Radio)	
Service Providers)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions in the Telecommunications Act)	
of 1996)	

**EX PARTE COMMENTS OF
SUPRA TELECOMMUNICATIONS & INFORMATION SYSTEMS, INC
IN RESPONSE TO
FCC PETITIONS FOR DECLARATORY RULING IN FCC 01-92**

I. Introduction And Statement Of Position

1. Supra Telecommunications and Information Systems, Inc. (“Supra Telecom”), pursuant to Public Notice, DA 02-2436, issued on September 30, 2002, hereby submits Opposing Comments (“Comments”) to the Federal Communications Commission (“FCC”) for consideration in CC Docket No. 01-92, *Comment Sought on Petitions for Declaratory Ruling Regarding Intercarrier Compensation for Wireless Traffic* and in support thereof, states as follows:

2. Supra Telecom is a competitive local exchange carrier (“CLEC”) incorporated, and lawfully doing business in Florida. Supra Telecom is certified by the Florida Public Service Commission (“FPSC”) to provide local exchange service within Florida. Supra’s principal place of business in Florida is 2620 S. W. 27th Avenue, Miami, Florida 33133.

3. Supra Telecom is a facilities-based CLEC and terminates millions of minutes of traffic originated from hundreds of CMRS providers each month. Supra agrees with T-Mobile that many CMRS providers lack sufficient traffic to warrant the time and expense of negotiating separate interconnection agreements with each and every CMRS provider. However, unlike the CMRS providers, Supra believes that wireless termination tariffs provide a reasonable and lawful solution to ensure that LECs are properly compensated for terminating traffic from hundreds of CMRS providers.

II. Tariffs Are A Reasonable Solution For Establishing A Compensation Arrangement With Hundreds Of Small CMRS Carriers.

4. The situation LECs face of terminating traffic from hundreds of CMRS providers is virtually identical to the situation of terminating traffic from literally hundreds of interexchange carriers (“IXCs”). Rather than negotiate separate interconnection agreements with the more than one thousand IXCs operating today, LECs have filed access tariffs with standard terms, conditions, and rates. These access tariffs ensure that the LECs are appropriately compensated for the expenses they incur to terminate traffic from the hundreds of IXCs that use the LEC’s network. Likewise, access tariffs are a

reasonable solution for a LEC to be appropriately compensated for the expenses it incurs to terminate traffic from the hundreds of CMRS carriers that use the LEC's network.

5. On page four of their petition, the petitioners state that for some small LECs, "... the dollars involved often do not justify the time and expense associated with negotiating an interconnection contract..." (see petition, p.4) Supra agrees that the time and effort to negotiate separate interconnection agreements with hundreds of CMRS carriers, some of whom only generate a handful of minutes each month, would be cost prohibitive. Hence, wireless access tariffs provide an economical, fair, and efficient means to establish billing terms, conditions, and rates with the CMRS carriers.

6. The petitioners state that historically, CMRS to LEC traffic was handled as bill-and-keep with subtending LECs, intimating that such arrangements were actually negotiated with the LECs and found agreeable to them. In actuality, the subtending LECs had no leverage to force the CMRS carriers to negotiate a fair reciprocal compensation agreement. The CMRS carriers largely ignored the requests of many smaller LECs to negotiate an interconnection agreement and simply assumed a bill-and-keep relationship. A number of small LECs responded by filing wireless access tariffs so they could recover the costs of terminating the CMRS carriers traffic. The heart of the T-Mobile complaint seems to be that the CMRS providers resent having to pay to terminate traffic on the LECs' network.

7. While the large, national CMRS carriers may deem the traffic to a smaller LEC to be insufficient to justify the time and expense of negotiating interconnection agreements, preparing monthly statements, and auditing amounts billed; many of the smaller LECs view the traffic sufficient and seek to rightfully recover their costs of terminating traffic. Wireless access tariffs have provided the means to economically and efficiently establish a billing mechanism to allow the LECs the opportunity to recover their costs.

8. If a wireless carrier believes that its traffic volumes are large enough to justify the time and expense of negotiating an interconnection agreement, then the wireless carrier should negotiate an agreement with the ILEC. The existence of a wireless termination tariff does not preclude a CMRS provider from negotiating an interconnection agreement with the LEC. By comparison, the RBOCs offer a Statement of Generally Accepted Terms, as an option for CLECs to adopt rather than negotiate a unique interconnection agreement. However, despite the existence of an SGAT, many CLECs choose to negotiate an interconnection agreement specifically tailored to the needs of the CLEC. Hence, if the CMRS carrier believes it is worth its time and expense to negotiate an interconnection agreement, it is free to do so. Absent a request by the CMRS carrier to negotiate, tariffed rates can fill the void.

9. In sum, wireless access tariffs provide a fair and economical solution to the problem of billing hundreds of CMRS carriers for use of the LEC's network. The FCC should endorse the use of wireless access tariffs as a reasonable solution that fairly and economically resolves a long-time billing problem. Supra requests that the Commission

find that a wireless termination tariff is a reasonable solution to fairly, economically, and efficiently handle the multitude of small wireless carriers with minimal traffic.

III. Bill And Keep Is Not An Appropriate Cost Recovery Mechanism Because CMRS To LEC Traffic Is Out-Of-Balance.

10. Implicitly, the CMRS carriers do not dispute that the LECs should be allowed to recover the cost of terminating CMRS carrier traffic on their networks. The CMRS carriers acknowledge the LECs' right to recover terminating costs by stating that bill-and-keep is an appropriate solution recognizing that bill-and-keep arrangements were a method of reciprocal compensation recognized in the Act to allow LECs to recover the costs of terminating traffic in specific situations. However, a key component of bill-and-keep is that the exchange of traffic is roughly in balance and that the terminating rates of each carrier are symmetrical. In the First Report and Order on Local Interconnection, the FCC specifically discussed situations where bill-and-keep was appropriate.

As an additional option for reciprocal compensation arrangements for termination services, we conclude that state commissions may impose bill-and-keep arrangements if neither carrier has rebutted the presumption of symmetrical rates and if the volume of terminating traffic that originates on one network and terminates on another network is approximately equal to the volume of terminating traffic flowing in the opposite direction, and is expected to remain so, as defined below.¹

11. It is generally accepted that CMRS to ILEC traffic is out-of-balance. Generally, the volume of terminating traffic that originates on the CMRS network and terminates on

¹ see In the Matter of Implementation of Local Competition Provisions in the Telecommunications Act of 1996, *First Report and Order*, paragraph 1111 (1996) ("Local Competition Order")

the LEC network is greater than the volume of terminating traffic flowing in the opposite direction. Hence, since CMRS to LEC terminating traffic is out of balance, bill-and-keep is not a workable solution and will not allow the LEC to fully recover its costs of terminating the CMRS traffic.

12. The FCC also found that bill-and-keep arrangements are not economically efficient arrangements because they “distort carriers’ incentive, encouraging them to overuse competing carrier’s termination facilities by seeking customers that primarily originate traffic.”² Clearly, bill-and-keep is not a sustainable long-term solution for compensating LECs for terminating the CMRS carriers’ traffic on their networks.

IV. A LEC Incurs Higher Costs To Terminate CMRS Traffic LATAwide Than It Incurs To Terminate LEC Traffic Within Its Local Exchange.

13. T-Mobile presumes that the cellular termination rates found in the various LECs’ wireless interconnection tariffs are too high because they approximate the LECs’ terminating switched access rate, not the LECs’ reciprocal compensation rate. *Supra* draws two observations from T-Mobile’s comment. One, it appears that if the cellular termination rate was lower that T-Mobile would not object and would not have filed this complaint. Two, simply because the cellular termination rate is higher than the LEC’s reciprocal compensation rate, does not mean that the rate is too high. On the contrary, one would expect that a cost-based cellular termination would be higher because the

² see Local Competition Order, para. 1112.

CMRS carriers have a much larger local calling area than does the LEC. The local calling area for a CMRS carrier is a Major Trading Area (“MTA”) which is often twice as large as a LEC’s Local Access and Transport Area (“LATA”) and several times larger than the LEC’s local calling area. Conversely, a small LEC’s local calling area is generally a single exchange or a handful of contiguous exchanges, both of which are much smaller than the LATA in which the “local” calling area is located and even smaller than an MTA.

14. Section 252 (d)(2)(A) of the Federal Act states that the rates for transport and termination shall be based on a “reasonable approximation of the additional cost of terminating such calls.”³ Clearly, a LEC will incur far more transport costs if it is required to terminate a CMRS carrier’s “local” call LATAwide than it will to terminate a local call from another LEC within the same or neighboring exchange. To meet the requirements of the Act that a LEC should be compensated for the cost of terminating traffic on its network necessarily means that a different rate for the transport and termination of local traffic will have to be established for CMRS carriers because their “local” calling area requires the LEC to terminate the traffic LATAwide.

15. Supra requests that the Commission find that it is reasonable for termination rates for CMRS carrier traffic to be higher than reciprocal compensation rates for LEC to LEC traffic because the LEC must terminate CMRS originated-traffic LATAwide which cause the LEC to incur higher costs.

³ 47 U.S.C. § 252(d)(2)(A)(ii).